



**HOME BUILDERS ASSOCIATION OF CONNECTICUT, INC.**

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Business*

March 2, 2012

To: Senator Steve Cassano, Co-Chairman  
Representative Linda M. Gentile, Co-Chairman  
Members of the Planning and Development Committee

From: Bill Ethier, Chief Executive Officer

Re: House Bill 5320, AAC Bonds and Other Surety for Approved Site Plans  
and Subdivisions

**The HBA of Connecticut is a professional trade association with almost 1,000 member firms statewide, employing tens of thousands of Connecticut citizens. Our members, all small businesses, are residential and commercial builders, land developers, home improvement contractors, trade contractors, suppliers and those businesses and professionals that provide services to our diverse industry. Our members build 70% to 80% of all new homes and apartments in the state each year.**

**We strongly support HB 5320 to address concerns raised by municipal planners and attorneys about what has turned out to be confusing language in PA 11-79.**

**Background:** PA 11-79 was one of our top priorities in 2011 and was adopted by the legislature to address inconsistencies and abuses of the performance bond process related to subdivision and site plan approvals. The performance bond process provides a financial guaranty to municipalities that approved site improvements (e.g., roads, sidewalks, soil and erosion controls) will be completed to the municipality's standards. **We urge the legislature to "fix" the misunderstandings about the language and intent of PA 11-79 but we also urge the legislature to not go backwards on the reforms obtained.**

Section 1 of HB 5320 deals with site plan approvals (sec. 8-3) and section 2 deals with subdivision approvals (sec. 8-25) - both sections of the statutes were amended last year with similar language to reform the performance bond process applicable to site plans and subdivisions. Two major "fixes" of PA 11-79 that are in HB 5320, about which municipal planners and attorneys complained and we agreed need clarification, are:

- 1) **Change the mandatory "shall" to "may" regarding posting a surety bond** (see lines 64 and 263). PA 11-79 was intended to allow developers to offer alternative forms of financial guarantees; it was never intended to mandate the posting of surety bonds, which are particularly expensive and difficult to obtain. Both developers and municipalities do not favor this form of financial guaranty so the mandate specific to surety bonds should be removed; and
- 2) **Clarify that municipalities may require developers to maintain site improvements for one year** (see lines 82-89 and 282-289). The reforms to site improvement maintenance requirements in PA 11-79 was intended to address abuses of some

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Proposed changes to HB 5320 by HBA of CT. Line #s below match line #s of raised bill (LCO No. 1025). HBA's changes are noted in **bold, red type** (see lines 51-52, 84-89, and 284-289):

{comment: we do not want to limit the scope of site improvements for which commissions may grant an extension of time to complete; so, delete the limitation at lines 51-52}

50 exceed ten per cent of such costs. At any time, the commission may  
51 grant an extension of time to complete any site improvements [that will  
52 be conveyed to or controlled by the municipality]. The commission

....

{comment: for site plans (lines 84-89) and subdivisions (lines 284-289), address the additional abuse that has arisen since the passage of PA 11-79, where one town is proposing to require developers to establish a homeowners association to take over the long-term or lifetime maintenance of what will be *public* facilities.}

82 phase was approved as a separate site plan. Notwithstanding the  
83 provisions of any special act, municipal charter or ordinance, no  
84 commission shall (A) require a [bond or surety to securitize]  
85 financial guarantee or payment to finance the maintenance of roads,  
86 streets, retention or detention basins or other improvements [associated] approved  
with such site plan for  
87 [maintenance occurring] more than one year after the date on which  
88 such improvements have been completed to the reasonable satisfaction  
89 of the commission or its agent or accepted by the municipality, or (B) require the  
establishment of a homeowners association, deed restriction, easement or similar  
instrument for the maintenance of approved site improvements, except for such  
instruments necessary to grant the municipality access to approved site  
improvements.

....

282 phase was approved as a separate subdivision. Notwithstanding the  
283 provisions of any special act, municipal charter or ordinance, no  
284 commission shall require (A) a [bond or surety to securitize] financial  
285 guarantee or payment to finance the maintenance of roads, streets, retention or  
detention basins or  
286 other improvements [associated] approved with such subdivision for  
287 [maintenance occurring] more than one year after the date on which  
288 such improvements have been completed to the reasonable satisfaction  
289 of the commission or its agent or accepted by the municipality, or (B) require the  
establishment of a homeowners association, deed restriction, easement or similar  
instrument for the maintenance of approved site improvements, except for such  
instruments necessary to grant the municipality access to approved site  
improvements.